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09/882,527	06/15/2001	Aaron Standridge	9623V-021110	9934

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EXAMINER

TRUONG, LECHI

ART UNIT

PAPER NUMBER

2126

DATE MAILED: 04/22/2004

12

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/882,527

Applicant(s)

STANDRIDGE ET AL.

Examiner

LeChi Truong

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 15 June 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. §§ 119 and 120**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

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### DETAILED ACTION

1. Claims 1-19 are presented for the examination.

#### Double Patenting

A rejection based on double patenting of the "same invention" type finds its support in the language of 35 U.S.C. 101, which states that "whoever invents or discovers any new and useful process ... may obtain a patent therefor ..." (Emphasis added). Thus, the term "same invention," in this context, means an invention drawn to identical subject matter. See *Miller v. Eagle Mfg. Co.*, 151 U.S. 186 (1894); *In re Ockert*, 245 F.2d 467, 114 USPQ 330 (CCPA 1957); and *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970).

A statutory type (35 U.S.C. 101) double patenting rejection can be overcome by canceling or amending the conflicting claims so they are no longer coextensive in scope. The filing of a terminal disclaimer cannot overcome a double patenting rejection based upon 35 U.S.C. 101.

2. Claims 6-9, 17-19 are rejected under 35 U.S.C. 101 as claiming the same invention as that of claims 1, 6, 8 of prior U.S. Patent No. 6,539,441 B1. This is a double patenting rejection.

Claims (1, 6, 8) of patent 6,539,441 B1 contain every element of claims 6-9, 17-19 of the instant applicant and as such anticipate the claims 6-9, 17-19 of the instant applicant.

#### Claim Rejections - 35 USC § 102

3. Claims 1, 2, 3, 5, 10-14 are rejected under 35 U.S.C. 102(e) as being anticipated by Grooters, US Patent no. 6,389,487.
4. As to claim 1, Grooters teaches an input device control program (col 6, lines 34-45; 260 in fig 5; col 4, lines 17-18) a multiple client application programs (multiple client applications,

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col 5, ln 31-40/ Fig 5) to simultaneously communicate (col 5, lines 31-36) with a single input device (258, fig 5; col 4, lines 17-18), wherein said input device control program is loaded as a process (col 6, lines 34-41), wherein all subsequent application programs call to said process to establish communication with said single input device (fig 5).

5. **As to claim 2,3**, Grooters teaches a digital Internet video camera, a microphone (col 3, ln 55 –60).

6. **As to claim 5**, Grooters inherently shows network protocols comprising: loading said input device control program, calling to said input device program with input/output data, buffering input and output to/from said input device control program, executing said input device control program; and unloading said input device control program (col 3, line 60 to col 4, line 13; figs 1 and 5).

7. **As to claim 10**, it is an apparatus claim of claim 1; therefore, it is rejected for the same reason as claim 1 above. In additional, Grooters teaches an input device driver file (col 5, ln 51-60/ col 6, ln 34-40), an executable client – server architecture, where each of said application program is a client, and said computer readable code is a server (col 6, ln 34-40).

8. **As to claim 11, 12**, they are apparatus claims of claims 2,3; therefore, they are rejected for the same reason as claims 2,3 above.

9. **As to claims 13**, Grooters teaches a personal computer, a handheld computer, an interactive set-top box, a thin client-computing device, a personal access device, a personal digital assistant, an Internet application, an Internet connected digital picture frame and combinations thereof (col 3, ln 44-60).

10. As to **claim 14**, Grooters teaches said application programs communication with client server architecture via a client side mechanism (col 6, ln 34-40).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claims 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Grooters( US. Patent 6,389,487).

12. As to **claim 4**, Grooters teaches the invention substantially as claimed including: video control methods (col 5, lines 1-30) comprising: initializing a video control (col 5, lines 1-30); and obtaining video driver information (col 5, lines 1-30). Grooters also show the control program is a component object model (COM) server (col 6, lines 34-41], and Grooters' invention may be utilized with any computer-controlled device [col 4, lines 1719]. Grooters does not show the control program is a distributed component object model (DCOM) executable program, taking digital still images, recording digital video images, setting video camera properties, obtaining video camera properties, video camera event notification, motion detection

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notification, audio visual (AVI) error notification, camera detached notification, and camera reattached notification. Official Notice is taken that both the concept and the advantages of providing for the control program is a distributed component object model (DCOM) executable program, taking digital still images, recording digital video images, setting video camera properties, obtaining video camera properties, video camera event notification, motion detection notification, audio visual (AVI) error notification, camera detached notification, and camera reattached notification are old and well known in the art. Therefore, it would have been obvious to the ordinary skilled person in the art at the time the invention was made to implement the control program as a distributed component object model (DCOM) executable program instead of COM executable program, and include the peripheral device as a camera to performing functions as taking digital still images, recording digital video images, setting video camera properties, obtaining video camera properties, video camera event notification, motion detection notification, audio visual (AVI) error notification, camera detached notification, and camera reattached notification in Grooters for purpose of user friendly and more flexible device by allowing it to operate in multiple configurations.

13. Claims 15, 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Grooters (US patent 6,389,487) in view of Microsoft (Appendix B).

14. As to claim 15, Grooters does not teach an ActiveX control. However, Microsoft teaches ActiveX control (ActiveX control, section Playing back files over the internet, line 13-19).

15. It would have been obvious to one of the ordinary skill in the art at the time the invention was made to combine the teaching of Grooters and Microsoft because Microsoft's Activex control would made multi-instance input device control more consistent.

16. As to claim 16, Grooters does not teach a virtual source filter. However, Microsoft teaches a virtual source filter (the source filter, sec: Playing back files over the internet, line 13-34).

17. It would have been obvious to one of the ordinary skill in the art at the time the invention was made to combine the teaching of Grooters and Microsoft because Microsoft's source filter would take full advantage of high performance hardware capabilities to achieve the best possible performance.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to LeChi Truong whose telephone number is (703) 305 5312. The examiner can normally be reached on 8 - 5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Meng-Ai An can be reached on 703-305-9678. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIP. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR

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system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIP system, contact the Electronic Business Center (EBC) at 866-217-9197(toll-free).

LeChi Truong

April 19, 2004

  
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